

Serial No. 10/073,173

Attorney Docket No. 259/014

Request for Reconsideration dated July 21, 2004Reply to Office action mailed March 23, 2004

REMARKS

The instant Request for Reconsideration is in response to the Office action mailed March 23, 2004, wherein claim 1 was rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Application Publication No. 2003/0034535 to Barenburg et al. ("the Barenburg et al. reference"), and wherein claims 2-8 were indicated as being allowable.

Applicants note with appreciation the Examiner's acknowledgment of the RCE. Applicants would like to bring to the attention of the Examiner that the response filed on July 25, 2003, under 37 C.F.R. § 1.116, confirms that claims 1-6 are pending, and not claims 1-8 as the Action states. In the amendment filed on December 16, 2002, applicants cancelled claims 7-20. Accordingly, for purposes of the instant response, applicants interpret the Examiner's allowance of claims 2-8 as being an indication that claims 2-6 are allowable.

The Examiner has rejected claim 1 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 2003/0034535 to Barenburg et al. ("the Barenburg et al. patent" or "Barenburg et al."). According to the rejection:

Barenburg describes a conductive pad that overlays an air space (Barenburg, front page figure 4602/4804 (conductive electrical contact i.e. conductive pad over air gap 4602, page 17, paras 177, 178), wherein at least a portion of the air space extends laterally beyond conductive pad) (front figure wherein air gap 4602 extends laterally beyond 4802 or 4804).

Since Barenburg teaches all the structural limitations the preamble in this case does not carry patentable weight.

(Office Action mailed March 23, 2004, p. 3).

Applicants respectfully traverse the rejection of claim 1. The Barenburg et al. patent neither discloses nor suggests: (1) a conductive pad that overlays an air space and (2) wherein at least a portion of the air space extends laterally beyond the conductive pad.

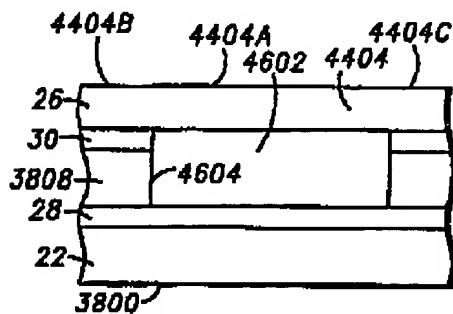
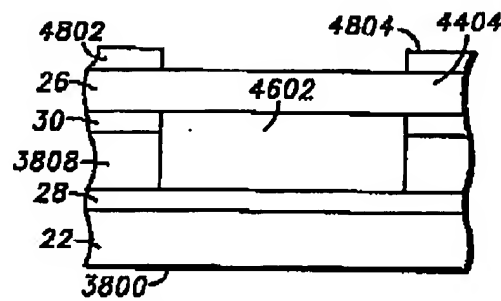
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Referring to the front page figure of the Barenburg et al. patent, the rejection asserts that reference number 4804 is a conductive pad that overlays an air space 4602 that extends laterally beyond 4802 or 4804. This is incorrect. The front page drawing figure of the Barenburg et al. patent corresponds to Fig. 49 of the Barenburg et al. patent which is discussed within the context of a description of the process of the Barenburg et al. patent relative to flow chart Figs. 50-51 and drawing Figs. 38-49 which show cross-sectional views. Fig. 46 and Fig. 49 (front page drawing figure) of the Barenburg et al. patent are reproduced below for ease of reference.

**FIG. 46****FIG. 49**

The Barenburg et al. patent teaches that reference number 4804 is an electrical contact on a monocrystalline material layer 26. (Page 16, paragraph [0167], lines 6-7). The electrical contact 4804, however, does not "overlay" air space 4602 as asserted in the rejection. According to the Merriam-Webster dictionary (www.m-w.com - <http://www.m-w.com/cgi-bin/dictionary?book=Dictionary&va=overlay>), the definition of "overlay" is:

Main Entry: **over·lay** ˈo-vər-lay
 Pronunciation: "O-v&r-'lA
 Function: transitive verb
 Inflected Form(s): over-laid ˈo-vər-lād/; -lay·ing
 1 a : to lay or spread over or across : SUPERIMPOSE b : to prepare an overlay for
 2 : OVERLIE 2

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The Barenburg et al. patent does not teach or suggest to one of ordinary skill in the art "to lay or spread over or across" the air space 4602 the electrical contact 4804. To say, perhaps, that the Barenburg et al. patent discloses that the electrical contact 4804 is elevated relative to the air space 4602 would be accurate, but there is no teaching or suggestion that the electrical contact is overlaid the air space 4602 - there is no vertical overlap between the electrical contact 4804 and the air space 4602. Accordingly, applicants respectfully submit that the Barenburg et al. patent fails to teach or suggest "a conductive pad that overlays an air space."

Reference number 4602 is described as a gap in the piezoelectrically active buffer layer 3808 that is bounded by a closed edge surface 4604 underneath a beam 4404 (monocrystalline material layer 26). (Page 16, paragraph [0166], lines 4-6). As described by Barenburg et al., the gap 4602 is "bounded by a closed edge surface 4604" (as shown in Fig. 46). In fact, the assertion in the rejection that "at least a portion of the air space extends laterally beyond conductive pad) (front figure wherein air gap 4602 extends laterally beyond 4802 or 4804)" is directly contradicted by this description and teaching that it is bounded by a closed edge surface 4604. Accordingly, applicants respectfully submit that the Barenburg et al. patent neither discloses nor suggests "at least a portion of the air space extend[ing] laterally beyond the conductive pad," as claimed in claim 1.

Based on the foregoing remarks and arguments, applicants respectfully submit that the rejection of claim 1 under 35 U.S.C. § 102(b) as being anticipated by the Barenburg et al. reference is traversed, and that claim 1 is in condition for allowance. As such, a notice of allowability of all pending claims 1-6 is earnestly and respectfully solicited.

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If the Examiner believes that additional discussions or information might advance the prosecution of the instant application, the Examiner is invited to contact the undersigned at the telephone number listed below to expedite resolution of any outstanding issues.

In view of the foregoing amendments and remarks, reconsideration of this application is earnestly solicited, and an early and favorable further action upon all the claims is hereby requested.

Respectfully submitted,

Date: July 21, 2004

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PETITION and
DEPOSIT ACCOUNT CHARGE AUTHORIZATION

This document and any concurrently filed papers are believed to be timely. Should any extension of the term be required, applicant hereby petitions the Director for such extension and requests that any applicable petition fee be charged to Deposit Account No. 50-1645.

If fee payment is enclosed, this amount is believed to be correct. However, the Director is hereby authorized to charge any deficiency or credit any overpayment to Deposit Account No. 50-1645.

Any additional fee(s) necessary to effect the proper and timely filing of the accompanying papers may also be charged to Deposit Account No. 50-1645.

CERTIFICATE OF TRANSMISSION UNDER 37 C.F.R. §1.8

I hereby certify that this correspondence is being facsimile transmitted to the
United States Patent and Trademark Office on July 21, 2004.


Signature

Cheryl A. Milhon
Name of Person Signing Certificate

Note: Each paper must have its own certificate of transmission, or this certificate must identify each submitted paper.